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12 Attorneys for Plaintiff SUCCESSFACTORS, INC.

13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION
17

18 SUCCESSFACTORS, INC.,

19 Plaintiff,

20 v.

21 SOFTSCAPE, INC.,

22 Defendant.
23

Case No. CV 08 1376 EDL

**MOTION FOR ADMINISTRATIVE RELIEF
TO FILE UNDER SEAL PLAINTIFF'S
LETTER TO MAGISTRATE JUDGE
ZIMMERMAN DATED JUNE 9, 2008**

24 Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff SuccessFactors, Inc. ("SuccessFactors")
25 hereby moves the Court for an Order permitting SuccessFactors to file under seal in this Court the
26 following:

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1. Highlighted portions of SuccessFactors' June 9, 2008 Letter to Magistrate Judge Zimmerman regarding discovery disputes.

SuccessFactors' Letter contains information, quotes, or references documents containing information which has been designated "Confidential," "Highly Confidential-Attorneys' Eyes Only" and/or "Highly Confidential-Outside Attorneys' Eyes Only" by Defendant Softscape, Inc. ("Softscape"). Pursuant to the Court's April 23, 2008 Protective Order, which limits access to such designated materials, SuccessFactors respectfully requests that the Court allow it to file under seal per Civil L.R. 79-5 portions of SuccessFactors' June 9, 2008 Letter to Magistrate Judge Zimmerman. The portions of the Letter at issue are highlighted on the pages of the Letter.

Under the terms of paragraph 10 of the Court's April 23, 2008 Protective Order, documents containing confidential information and filed with the Court are to be filed under seal. SuccessFactors takes no position at this time as to whether the information within the highlighted portions of its June 9, 2008 Letter has been properly designated as "Confidential" or "Highly Confidential" by Softscape. However, the highlighted portions of the letter at issue are relevant to the Court's determination of issues identified within SuccessFactors' June 9, 2008 Letter, and as such, SuccessFactors respectfully requests that the portions be filed under seal in accordance with Civil L.R. 79-5(d).

At the time of this motion, counsel for SuccessFactors was unable to reach counsel for Softscape to confer pursuant to Civil Local Rules 7-11 and 7-12. However, SuccessFactors has no reason to believe counsel for Softscape would oppose this motion.

Respectfully submitted,

Dated: June 9, 2008

FENWICK & WEST LLP

By: /s/Henry Z. Carbajal III
Henry Z. Carbajal III (CSB No. 237951)
Attorneys for Plaintiff SUCCESSFACTORS, INC.
MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO PC

Dated: June 9, 2008

By: Jeffrey M. Ratnoff
Jeffrey M. Ratnoff (CSB No. 197241)
Attorneys for Defendant SOFTSCAPE, INC.

DECLARATION OF HENRY Z. CARBAJAL III

I, Henry Z. Carbajal III, declare as follows:

1. I am an associate with the law firm of Fenwick & West LLP, counsel of record for Plaintiff SuccessFactors, Inc. ("SuccessFactors"). I make this declaration based on my personal knowledge, except where otherwise indicated, and if I am called as a witness, I would and could testify competently to the matters contained herein.

2. On April 23, 2008, this Court entered a Protective Order in this case. Pursuant to paragraph 10 of that order, any document filed in this action which contains confidential information shall be filed under seal in accordance with Civil Local Rule 79-5.

3. The highlighted portions within SuccessFactors' June 9, 2008 Letter to Magistrate Judge Zimmerman regarding discovery disputes quotes, refers to or otherwise provides information derived from documents and depositions that have been designated by Defendant Softscape, Inc. ("Softscape") as "Confidential" or "Highly Confidential" under the Protective Order. Softscape maintains that the information in the highlighted portions of the Letter contain non-public proprietary information, trade secrets, know-how or proprietary business information. Thus, SuccessFactors requests that it be allowed to file those portions of its June 9, 2008 Letter under seal.

4. SuccessFactors will lodge with the Clerk a sealed copy of the above document.

5. SuccessFactors will notify counsel for Softscape of their obligation to file a declaration supporting the confidentiality of its information referenced above under Civil L.R. 79-5(d).

6. Pursuant to Civil L.R. 79-5, SuccessFactors intends to file publicly or withdraw from the record any document that it requested to be filed under seal based on confidentiality designations where such designation is withdrawn by Softscape, or SuccessFactors' request is denied by this Court.

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1 7. On June 9, 2008, I attempted to confer with counsel for Softscape concerning this
2 motion. At the time of this motion, I was unable to reach counsel to meet and confer. However, I
3 have no reason to believe counsel for Softscape would oppose this motion.

4 I declare under penalty of perjury under the laws of the United States of America and the
5 State of California that the foregoing is true and correct. Executed this 9th day of June 2008 at
6 Mountain View, California.

7
8 By: /s/Henry Z. Carbajal III
9 Henry Z. Carbajal III

10 1286554

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Attorneys for Plaintiff SUCCESSFACTORS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

18 SUCCESSFACTORS, INC.,
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20 Plaintiff,
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22 v.
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SUCCESFACTORS, INC.,
Plaintiff,
v.
SOFTSCAPE, INC.,
Defendant.

Case No. CV 08 1376 EDL

**[PROPOSED] ORDER GRANTING
MOTION FOR ADMINISTRATIVE RELIEF
TO FILE UNDER SEAL PLAINTIFF'S
LETTER TO MAGISTRATE JUDGE
ZIMMERMAN DATED JUNE 9, 2008**

[PROPOSED] ORDER GRANTING
MOTION FOR ADMINISTRATIVE RELIEF TO FILE UNDER SEAL

Plaintiff SuccessFactors, Inc.'s ("SuccessFactors") Motion for Administrative Relief to
File Under Seal:

(1) Highlighted portions of SuccessFactors' June 9, 2008 Letter to Magistrate
Judge Zimmerman regarding discovery disputes
is hereby **GRANTED**.

DATED: _____
Honorable Bernard Zimmerman
United States Magistrate Judge

1286564

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW